

## Federal Communications Commission

AUG 13 4 55 AM '04  
DA 04-2506Before the  
Federal Communications Commission  
Washington, D.C. 20554

DISPATCH

In the Matter of )  
 )  
Reclassification of License )  
of Stations KXXY-FM, Oklahoma City, Oklahoma ) RM-11031  
and KATT-FM, Oklahoma City, Oklahoma )

## ORDER TO SHOW CAUSE

Adopted: August 10, 2004

Released: August 12, 2004

Comment Date: September 27, 2004

By the Assistant Chief, Audio Division:

1. Before the Audio Division is a Petition for Rule Making filed by Charles Crawford ("Petitioner"), requesting the allotment of Channel 241A at Bokchito, Oklahoma, as that community's first local aural transmission service.<sup>1</sup> To accommodate this allotment, Petitioner also requests the reclassification of Station KXXY-FM, Channel 241C, Oklahoma City, Oklahoma and Station KATT-FM, Channel 263C, Oklahoma City, Oklahoma, to specify operation as Class C0 facilities. Station KXXY-FM currently operates on Channel 241C with an effective radiated power ("ERP") of 94.9 kilowatts at 372 meters height above average terrain ("HAAT"). In addition, Station KATT-FM currently operates on Channel 263C with an ERP of 100 kilowatts at 363 meters HAAT. As such, both FM stations are subject to reclassification as a Class C0 facility, since they are both operating below the minimum Class C facilities of 100 kW ERP and 451 meters HAAT.<sup>2</sup>

2. Section 316(a) of the Communications Act of 1934, as amended, permits the Commission to modify an authorization if such action is in the public interest.<sup>3</sup> Further, pursuant to Section 316(a), we are required to notify the affected station of the proposed action, as well as the public interest reasons for the action, and afford at least 30 days to respond. This procedure is set forth in Section 1.87 of the Commissions' rules.<sup>4</sup> In this instance, a Class C0 reclassification for Stations KXXY-FM and KATT-FM at Oklahoma City would accommodate the Petitioner's request to allot Channel 241A to Bokchito,

<sup>1</sup> Petitioner also proposes the substitution of Channel 263A for vacant Channel 241A at Clayton, OK, which requires the reclassification of Station KATT-FM, Channel 263A, Oklahoma City, OK as a C0 facility.

<sup>2</sup> See 1998 Biennial Regulatory Review—Streamlining of Radio Technical Rules in Parts 73 and 74 of the Commission's Rules, 15 FCC Rcd 21,649 (2000) ("Second Report and Order"), and Section 1.420(g), n. 2, and Section 73.3573, n. 4, of the Commission's Rules.

<sup>3</sup> 47 U.S.C. § 316(a).

<sup>4</sup> See *Modification of FM and Television Licenses Pursuant to Section 316 of the Communications Act*, 2 FCC Rcd 3327 (1987).

Oklahoma, as that community's first local aural transmission service. Therefore, the Petitioner's request has sufficient public interest benefits and justifies the issuance of an order to show cause.

3. The reclassification of a Class C FM station to a Class C0 station may be initiated through the filing of a petition for rule making to amend the FM Table of Allotments.<sup>5</sup> In instances where an initiating petition proposes amending the FM Table of Allotments in addition to the proposed reclassification of a Class C FM station, the Commission must issue an order to show cause as set forth in Section 73.3573, note 4, of the Commission's rules. In such circumstances, a notice of proposed rule making will be issued only after the reclassification issue has been resolved.

4. A petitioner proposing both amendment of the FM Table of Allotments and reclassification of a Class C FM station must certify that no alternative channel is available for the proposed service.<sup>6</sup> Petitioner has submitted such certification. Therefore, in order to comply with the Commission's Class C0 reclassification procedures, we must issue this *Order to Show Cause* directed to Clear Channel Broadcasting Licenses, Inc. ("Clear Channel"), licensee of Station KXXY-FM and Citadel Broadcasting Company ("Citadel"), licensee of Station KATT-FM at Oklahoma City, Oklahoma. Clear Channel is required to show cause why its license should not be modified to specify operation on Channel 241C0 in lieu of Channel 241C at Oklahoma City. Moreover, Citadel is required to show cause why its license should not be modified to specify operation on Channel 263C0 in lieu of Channel 263C at Oklahoma City.

5. The license for FM Station KXXY-FM (File No. BLH-20000105AAO) at Oklahoma City, Oklahoma, can be modified to Channel 241C0 at its current authorized transmitter site located at coordinates 35-35-52 NL and 97-29-22 WL. Pursuant to 47 C.F.R. Section 1.87, Clear Channel, may, no later than September 27, 2004 file a written statement showing with particularity why its respective license (File No. BLH-20000105AAO) should not be modified as proposed in this *Order to Show Cause*. The license for FM Station KATT-FM (File No. BLH-19841105DA) at Oklahoma City, Oklahoma, can be modified to Channel 263C0 at its current authorized transmitter site located at coordinates 35-35-22 NL and 97-29-03 WL. In addition, Pursuant to Section 1.87 of the Commission's Rules, Citadel, may, no later than September 27, 2004 file a written statement showing with particularity why its respective license (File No. BLH-19841105DA) should not be modified as proposed in this *Order to Show Cause*. The Commission may call on Clear Channel and Citadel to furnish additional information. If Clear Channel or Citadel raises a substantial and material question of fact, a hearing may be required to resolve such a question pursuant to Section 1.87. Upon review of the statements and/or additional information furnished, the Commission may grant the modifications, deny the modifications, or set the matter of modifications for hearing. If no written statement is filed by the date referred to above, Clear Channel and Citadel will be deemed to have consented to the modifications as proposed in this *Order to Show Cause* and a final *Order* will be issued by the Commission, if the channel modifications are found to be in the public interest.

6. If Clear Channel or Citadel chooses to seek authority to modify its respective facilities, an acceptable application for a construction permit to increase their facilities to at least 451 meters HAAT and

<sup>5</sup> *Second Report and Order, supra*, and 47 C.F.R. § 1.420, n.2.

<sup>6</sup> See 47 C.F.R. §§ 73.3573, n. 4 and 1.420(g), n.2. See also *Second Report and Order*, 15 FCC Rcd at 21,662, ¶ 26.

100kW ERP for Stations KXXY-FM and KATT-FM must be filed with the Commission within 180 days subsequent to the show cause response due date (September 27, 2004). Upon the filing of an acceptable construction permit application, the proposal to allot Channel 241A at Bokchito, will be dismissed. The present three-year construction period will be applicable if a construction permit is obtained by Clear Channel for Channel 241C or Citadel for Channel 263C, as specified herein, under this procedure. If the construction is not completed as authorized, Stations KXXY-FM and KATT-FM are subject to reclassification automatically as Class C0 stations, and, in that event, a new petition for rule making to allot Channel 241A at Bokchito, may be refiled.

7. IT IS FURTHER ORDERED, That the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL Send a copy of this *Order to Show Cause* by Certified Mail, Return Receipt Requested, to the following licensee and its counsel:

Clear Channel Broadcasting Licenses, Inc.  
Licensee of Station KXXY-FM  
2625 South Memorial Drive  
Suite A  
Tulsa, OK 74129

Citadel Broadcasting Company  
Licensee of Station KATT-FM  
City Center West, Suite 400  
7201 W. Lake Mead BLVD.  
Las Vegas, Nevada 89128

8. For further information concerning this proceeding, contact Rolanda F. Smith, Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
Assistant Chief, Audio Division  
Media Bureau